

CITY OF APOPKA

Minutes of the City Council regular meeting held on December 1, 2021 at 1:30 p.m., in the City of Apopka Council Chambers.

PRESENT: Mayor Bryan Nelson
Commissioner Doug Bankson
Commissioner Kyle Becker
Commissioner Alexander Smith
Commissioner Diane Velazquez
City Administrator Edward Bass
City Attorney Michael Rodriguez

PRESS PRESENT: John Peery – The Apopka Chief

INVOCATION/PLEDGE – Commissioner Smith provided the Invocation, led in the Pledge of Allegiance and read the Fact of the Day, as follows: On December 6, 1884, in Washington, D.C., workers place a nine-inch aluminum pyramid atop a tower of white marble, completing the construction of an impressive monument to the city's namesake and the nation's first president, George Washington. Made of some 36,000 blocks of marble and granite stacked 555 feet in the air, the monument was the tallest structure in the world at the time of its completion in December 1884. More than 800,000 people visit the monument each year. A city law passed in 1910 restricted the height of new buildings to ensure that the monument will remain the tallest structure in Washington, D.C.

APPROVAL OF MINUTES

1. Regular Council Meeting Minutes of October 6, 2021
2. Regular Council Meeting Minutes of October 13, 2021
3. Regular Council Meeting Minutes of November 3, 2021
4. Regular Council Meeting Minutes of November 17, 2021

Mayor Nelson said everyone should have a copy of the revised minutes and asked if anyone had any other changes or questions regarding. Hearing none, he asked for a motion to approve the four (4) sets of minutes.

MOTION by Commissioner Bankson and seconded by Commissioner Velazquez, to approve the four (4) sets of minutes. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith and Velazquez voting aye.

AGENDA REVIEW

Edward said there are no changes to the Agenda.

PUBLIC COMMENT PERIOD

There were no speaker cards submitted for comments during the Public Comment period.

CONSENT (Action Item)

1. Approve the Winding Meadows Subdivision Plat
2. Approve a Relocation of Drainage Agreement Easement with Central Florida Expressway and DHIC-OAKPOINT, LLC
3. Authorize execution of Participation Agreements relating to opioid litigation settlement.
4. Authorize the Police Chief to present retiring member of the agency, Police Officer Michael Reagor his service weapon.
5. Authorize the execution of piggyback contracts for fiscal year 2022.

Mayor Nelson asked if anyone needed to pull any of the items or had any questions regarding. Hearing none, he asked for a motion to approve the five (5) items on consent.

MOTION by Commissioner Smith and seconded by Commissioner Velazquez, to approve the five (5) items on consent. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker, Smith & Velazquez voting aye.

BUSINESS (Action Item)

1. Approve The Ridge Planned Development – Development Agreement, First Amendment
Presented by: Jean Sanchez

Jean Sanchez, Planner II, said this is a request to approve the First Amendment to the Ridge Development Agreement. She said if you recall, the Ridge Planned Development is comprised of eight (8) parcels to be developed for industrial, commercial and residential uses. She said in light of the establishment of The Ridge Community Development District (CDD) owning all the master common elements, the developer is seeking to amend the Development Agreement, specifically Section 3, of the original recorded agreement, to remove the requirement for an association and utilize a covenant restriction. She said the recommended motion is to approve the First Amendment to the Ridge Development Agreement.

Commissioner Velazquez asked Jean if she could repeat what they want to adjust to which Jean stated that they're removing the requirement for an HOA since they're now a CDD.

Commissioner Becker asked for confirmation that since they're a CDD, the HOA is not required to which Jean confirmed.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve the First Amendment to Development Agreement for The Ridge Planned Development.

MOTION by Commissioner Bankson and seconded by Commissioner Becker to approve the First Amendment to the Development Agreement for The Ridge Planned Development. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye

2. Approve the Orlando Apopka Commerce Center Major Development Plan and Development Agreement.

Presented by: Bobby Howell

Bobby Howell, Planning Manager said the applicant is requesting approval for the Major Development Plan and Development Agreement for four (4) warehouse buildings totaling 1,241,790 square feet. He said the area that will be developed in two phases in the Apopka 429 Subdivision. He said the property is located west of US 441 and southwest of Wesley Road and is approximately 90.93 acres in size. The site will be accessed via a newly constructed road leading into the site from US 441. He said three (3) access points will be provided leading into the site and said right and left turn lanes will be constructed leading into the site of both access points. He said stormwater is proposed to be discharged into five (5) ponds that are located throughout the Apopka 429 subdivision. He said the applicant has provided a Development Agreement which addresses conveyance and maintenance of the stormwater ponds, Prohibited Uses, Special Exceptions, consistency with the Comprehensive Plan, and interior lot line changes. He said the recommended motion is to approve the Orlando Apopka Commerce Center Major Development Plan and Development Agreement.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve the Orlando Apopka Commerce Center Major Development Plan and Development Agreement.

MOTION by Commissioner Smith and seconded by Commissioner Becker to approve the Orlando Apopka Commerce Center Major Development Plan and Development Agreement. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye

3. Approve Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement with Central Florida Expressway.

Presented by: Pam Richmond

Pam Richmond, Transportation Coordinator, said this item has to do with the Harmon Road Extension and the property swap we discussed close to a year ago. She said when some title work was done, it was discovered that there was a certain restriction placed on the property

that the City received from CFX so we had to get that released. We took it to their right-of-way committee and everything seemed to be going fine but a few days later, they called her and said we need to go back to right-of-way committee as there was additional language that needed to be added to the agreement. She said they have a new policy at CFX for their remnant parcels and other properties they own, and they've decided they're going to market those for cell towers and billboards. She said since they heard that we potentially were going to put a cell tower on the property behind the location of the fire station, they've decided to place this restriction on that says that if we do end up putting a cell tower on the property, they would be entitled to 50% of all of any tenant revenues we would make. She said it's not really an issue right now as she understands the consensus is that we're not putting a cell tower on this property but in order to move forward, we need to clear this up as we need the property. She said we're close to advertising the construction of the road and all of this needs to be resolved. She said this is an agreement with the expressway which changes the conditions of the property that they gave to us. She said we have another cell tower on Mount Plymouth and it has the same language in it. She said we have no tenants on it so they're not collecting any revenue from us. She said CFX seems to think it's worth them re-writing the agreement in order to add this language.

Commissioner Velazquez asked what is the new agreement saying?

Pam stated that it essentially says if we ever decide to build a cell tower on this property or on the property we received from the Hospital in that property swap, and we make any money from any tenant related to that cell tower, that we'll split this 50/50 with CFX. She said whenever they give property to us, which we need for the road, they always put a restriction on it with a reverter clause and the restriction says that it can only be used for things related to roadways, ponds, or right-of-way needs. She said they don't allow a commercial use on the property where you can make any profit. She said if that becomes that case, that's when the reverter clause kicks in and they take the property back and say if you want to use it for that, you're going to pay fair market value.

Mayor Nelson said that's always an option, we can go back if we want and pay fair market value for the property, which may be the equivalent of \$50,000.

Pam said that's only a tiny piece of property and that would only kick in if we decided to put a cell tower there.

Commissioner Becker asked what the pay back period would be to which Pam stated that if we put a tower there and had to split the revenues, it would be for as long as the tower is there. He said it would be a better use of money to pay \$50,000 for the land and own it outright so why would we do this agreement?

Pam said that since we've talked about this, other options have become available for locations for cell towers, if we decide to move it from where it is. She said this is essentially a non-viable site right now.

Commissioner Smith said by the same token, if we were to purchase it for \$50,000, that will delay the construction of the road.

Pam said that's the issue here and said we've been doing this for 8 months and they keep delaying and delaying. She said we're at the point of advertising and without having this cleared up, we can't advertise the project and get Harmon Road constructed.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve the Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement with Central Florida Expressway.

MOTION by Commissioner Smith and seconded by Commissioner Velazquez to approve the Partial Release and Reestablishment of Restriction and Partial Release of Easement and Maintenance Agreement with Central Florida Expressway. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye

4. Approve additional funding to complete the turn lanes on Binion Road for the St. Johns River Water Management District's Apopka Service Center.
Presented by: Pam Richmond

Pam Richmond, Transportation Coordinator said, we entered into an agreement with the St. Johns River Water Management District (SJRWMD) about a year ago and our agreement was that they would locate on property owned by the City and we would build their turn lanes and driveway. She said at that time, the agreed upon price was \$447,000 and change. She said due to circumstances, that cost has gone up and her request today is to ask that we share the cost with the contractor. She said she doesn't think we should bear the full amount but she feels that it would be unfair to ask them to bear the full amount either as construction costs have gone up almost 30% in the last year. She said Orange County issued a permit for this project and then retracted it and asked the contractor to design the turn lanes a little differently. She said we do have the "not to exceed" agreement but given the circumstances, and our partnership with the Collage Companies, she feels we should share the costs and is requesting \$43,000 additional to help offset the costs for the change in design so we can complete this project with our partner SJRWMD.

Commissioner Velazquez said when you say cost share, \$43,000 is our share.

Pam said the contractor Tandare and Company are the actual people doing the construction and said they costed it out and it was \$92,000 to make the changes and said they came down on their cost of \$6,500, which leaves the balance of \$86,000 so we're splitting that with the Collage Companies.

Commissioner Becker said that in our original contract, he's assuming our max had contingencies built into it to which Pam stated there was no contingency and that it was a \$447,000 "not to exceed" agreement.

Commissioner Becker said the "not to exceed" amount, he would assume had some sort of contingency built into it.

Pam said that at that time they thought \$447,000 was going to way exceed the cost of the project and that we'd be getting money back.

Commissioner Becker said as he reads the description, a lot of this was outside of the City's responsibility as to the increase in costs so help him understand why we should bear the additional costs.

Pam said we need to do the project, we have a relationship with the Collage Companies and costs have escalated in the last year.

Commissioner Velazquez asked what changed in the design to which Pam stated that the it has to do with the turn lane length that were tied to the posted speed that Orange County imposed.

Rob Maphis with the Collage Companies said that there was a defined scope of work regarding the limit of the length of the turn lane. He said significantly, Orange County issued a permit for that and a month later, they rescinded the permit approval. He said that's what's spawned the revisions. He said as far as the splitting the costs, it's actually a little more than what Pam eluded to and said we've not marked up this change and are not charging for the revised design.

Discussion ensued as to the study done regarding the design and posted speed limit and who's at fault.

Commissioner Smith said in order to fulfil our commitment with the SJRWMD, we need to make this correction.

Commissioner Bankson said the bottom line is that it was an oversight and we need to deal with the issue.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve the additional funding to complete the turn lanes on Binion Road for the St. Johns River Water Management District's Apopka Service Center.

MOTION by Commissioner Velazquez to approve for the additional funding with the caveat that this does not exceed the contractual number of \$43,000. The motion was seconded by Commissioner Smith to approve the additional funding to complete the

turn lanes on Binion Road for the St. Johns River Water Management District's Apopka Service Center. Motion carried 4-1 with Mayor Nelson, and Commissioners Bankson, Smith & Velazquez voting aye, and Commissioner Becker voting nay.

PUBLIC HEARINGS/ORDINANCES/RESOLUTION (Action Item)

1. Ordinance No. 2873 – Second Reading – Comprehensive Plan – Property Rights Element
Project Manager: Bobby Howell

Mayor Nelson asked if there have been any changes since the first reading to which Bobby Howell advised there were none. He then asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to adopt Ordinance No. 2873.

MOTION by Commissioner Bankson and seconded by Commissioner Becker to adopt Ordinance No. 2873. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye.

2. Ordinance No. 2886 – First Reading - Rezoning – Natura Vista
From: T (Transitional District)
To: MU-ES-GT (Mixed-Use-East-Shore – Gateway Subdistrict)
Owner/Applicant: Natura Vista, LLC
Location: South of Wilkins Street and East of West Orange Blossom Trail
Project: 3.05 +/- acres
Project Manager: Phil Martinez

Phil Martinez, Planner II, said the applicant is proposing a rezoning from T (Transitional District) to MU-ES-GT (Mixed-Use-East-Shore – Gateway Subdistrict), for approximately 3.05 acres. He said the subject property is located at the intersection of Orange Blossom Trail and Wilkins Street. He said single family homes and the Orlando-Apopka Airport are within the vicinity. He said the DRC and the Planning Commission recommend approval of the proposed rezoning to MU-ES-GT.

Mindy McCormack, whose address is: 4348 McDonald Gley Road, Apopka, FL 32712 said she's right down the street from where this monstrosity wants to be. She said they want to make one exit on Wilkins Road, just a few hundred yards long. She said the existing road isn't even a two lane road and said it's the only way in and out and this will put even more cars on this tiny road. She said there is another subdivision, unfortunately going in beside it and said they have an entrance coming in which can be connected to the entrance for this place. She said she wouldn't mind if it were a business that was open daily, which closed on Sunday but to have rental apartments that close to where they live is not good and stated that "people who rent don't take care of anything". She suggested that we require it to be townhomes or condos and said they would appreciate their concerns being heard.

Commissioner Bankson said he's familiar with that and has driven up that lane and thought this would be a nice place and said this didn't seem to fit in this location.

Mayor Nelson asked Phil to pull this up on the map and asked if we know what that entrance looks like.

Commissioner Smith said the only objection is to keep the entrance off of Wilkins Road.

Commissioner Velazquez asked if there was a community meeting, which was confirmed.

Dave Croson, 1321 Apopka Airport Road, Hanger 80, Apopka, FL 32712, said he's one of the property owners, pilots and air-craft owners out at the Orlando-Apopka Airport. He said he's here because of the implied residential usage on this property. He said the obvious intention is for 45 multi-family units, which is in conflict with the preservation of the airport area. He said you've shown your support in the past to the airport and he appreciates that you understand the value of the airport to the City and community. He said in speaking with people on the street, the consensus is that the airport is a good thing but said they don't realize the efforts needed to preserve the airport. He said most cities do not have airports so Apopka is unique in that regard. He said it's not a large airport and we don't have Southwest going in there but said you do see some corporate turbo-props and jets there. He said most cities do not have airports and said with the large industrial development going on to the West of 429, that's mostly cleared out, he anticipates more corporate activity at the airport, and said his goal is to promote the long term preservation of the airport and the asset that we have. He provided some information to the clerk for the record.

Kim Fisher, on behalf of the applicant, agreed with and thanked staff and said we do have Future Land Use in place for this property and said it's the Zoning that is Transitional. She said we're just trying to get the Zoning to match the Future Land Use and said the property is in the Gateway Corridor, which does allow multi-family. She said we did speak with the City and said she's not going to say she knows anything about the project that's going to the South but she knows that she can't really encumber a property that's already under construction and change your plans and allow an access point. She said their access is to be from Wilkins and said the City will require us to improve Wilkins up to the frontage of our property. She said she does not think that DOT will allow an access and said when we spoke with City Staff, they wanted it to be on Wilkins and not US 441. She said DOT requires separation and said they also want to know that you don't have another alternative. She reiterated that they're consistent with their FLU and said we're just trying to get the zoning to match the Mixed-Use FLU designation. She said the owner is going to speak and said he's done a noise study and knows more about airport noise than she.

Joe Savino, the owner of the property and representative of Natura Vista, LLC. said he wanted to address a couple of things. He said as our Engineer just mentioned, we're looking to re-zone this at this point and said our final plans are not final but we have had a

community meeting and there were close to a dozen homeowners present. He said there was some discussion there about traffic and access in and out. He said we have done a noise study to address Mr. Croson's concerns. He said the Airport asked us to come and meet with them, which we did meet with several of the board members, including Mr. Croson, who was at the time, president of the board. He said this is a privately owned General Aviation Airport and the law uses these words very specifically. He said we completed the noise study refers to Administrative Code: 150 CFR, and said this is a General Aviation Airport however under 150 CFR, it's not defined as an airport as more than 90% of the activity is derived from single-engine aircraft. He said they've been before City Council before back in November of 2019, when they opposed development to the West, called the Rubright property. He said the bottom line is that the noise level is greater at US 441 than from the airport traffic, which is single-engine aircraft, weighing about the same as a Honda Civic. He said the noise study shows that they're far below the 65 dcb recommended by the FAA to be concerned about for residential uses.

Commissioner Velazquez asked if we have a copy of the noise study to which Mr. Savino stated they just received the study and will be providing a copy.

Commissioner Becker said as this is a quasi-judicial matter, we're here to decide whether or not to change the zoning and not to vote on the concept plan. He said from a zoning prospective, we have the land use of Mixed-Use and said the zoning will fall in line. He said when he looks at the land use classification on the prior map, none of them have a residential component on the mixed-use classification. He said he assumes that the zoning classification is just that and said this use and said the use and concept of what you're trying to do on this piece of property may be highly debated as you get further down in the process.

Commissioner Bankson said there are several twin-engines that are based there as well as turbo props and jets and said there definitely is a difference between the smaller ones but said that's a different argument.

Mayor Nelson said that the argument that Commissioner Becker made is that the zoning is proper but it's what do we allow on this property. He said the applicant will still need to come back to this Council with a plan and said that this hearing is not to give them the authority to build apartments.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve Ordinance No. 2886 at first reading and hold over for a second reading and adoption.

MOTION by Commissioner Becker, and seconded by Commissioner Velazquez to approve Ordinance No. 2886 at first reading and hold over for a second reading and adoption. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye.

3. Ordinance No. 2887 – First Reading - Rezoning – Acuera Estates
From: T (Transitional District) and PD (Planned Development)
To: RSF-1B (Residential Single-Family District – Large Lot)
Owner: Ever Meadow, LLC, Village of Fame, LLC
Applicant: Cory N. Sitler, P.E., Kimley-Horn & Associates, Inc
Location: East side of Tigris Drive and west of Jason Dwelley Parkway
Project: 38.62 +/- acres
Project Manager: Bobby Howell

Bobby Howell, Planning Manager said the subject property is located on the East side of Tigris Drive and West of Jason Dwelley Parkway and approximately 38.62 acres in size. He said the applicant is requesting a rezoning of the properties from PD and RSF-1A to RSF-1B to allow for the development of a single family subdivision at a maximum density of 2 dwelling units per acre. He said the FLU designation is residential very low suburban, which is a max of 2 dwelling units per acre and said the property is North of Ponkan Road and the Comprehensive Plan limits density to no more than 2 DU per acre in this area of the city. The applicant is proposing a single-family residential subdivision with a minimum lot size of 75-feet. Minimum lot widths in the adjacent Orchid Estates subdivision is 70-feet. He said OCPS has provided a report indicating that capacity for the public's development is available at all school levels.

Commissioner Becker said that in Orchid Estates, you said the lots were 75-feet and most of them are 70-feet to which Bobby said he thought he said 70-feet.

Commissioner Smith said that if the school capacity report says there is available at all school levels, he finds that confusing when previously it showed that it wasn't available so how is it available for this project to which Bobby said they've looked at this and it shows this is available at all school levels.

Mayor Nelson asked Bobby to make a call to OCPS and certify that.

Cory Sitler, Kimley-Horn said we contacted OCPS and their analysis was based upon future land use, which is not changing so we're still within the residential very-low subdivision so this was their determination.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve Ordinance No. 2887 at first reading and hold over for a second reading and adoption.

MOTION by Commissioner Bankson, and seconded by Commissioner Velazquez to approve Ordinance No. 2887 at first reading and hold over for a second reading and adoption. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye.

4. Ordinance No. 2888 – First Reading - Change of Zoning – Magnolia Terrace
From: T (Transitional District) and RSF-1A (Residential Single-Family-Estate District)
To: PD (Planned Development)

Owners: Marion Wade Hopper Life Estate, Mary Kathleen Hopper Life Estate, Harold Wayne Thomas, Melody Lynn Thomas, Mary Kathleen Hopper, Douglas Matthews Trust, Anita Matthews Trust, George A. Thomas, Sandra K. Thomas, Vernus Stapler, Gail Marie Stapler, Kenneth W. Davidson, and Natalie W. Davidson

Applicant: Appian Engineering, LLC

Location: East of South Binion Road and south of Willet Avenue

Project: 95.09 +/- acres

Project Manager: Bobby Howell

Bobby Howell, Planning Manager said the subject properties are located east of South Binion Road and south of Willet Avenue and are approximately 95.09 acres total in size and are zoned T (Transitional District) and RSF-1A (Residential Single-Family-Estate District) and have a future land use designation of Low Density Residential. He said the proposed change of zoning to PD (Planned Development) is being requested by the prospective developer who proposes to construct a 300-unit residential subdivision consisting of 124 single-family detached units and 176 townhome units developed in two phases. The PD Master Plan/Major Development Plan proposes a residential subdivision consisting of single-family lots and townhome lots on 95.09 acres with a maximum allowable density of 3.7 dwelling units per acre, which is 1.3 dwelling units less than the allowable maximum density of 5 dwelling units per acre. The single-family lots range in size from 60-feet by 125-feet, or 7,500 square feet in area, 75-feet by 125-feet, or 9,375 square feet, and corner lots ranging in size from 80-feet by 125-feet, or 8,616 square feet in area, and 92.5-feet by 125-feet, or 11,429 square feet in area. The townhome units are located in the interior of the site, and the single-family units are located on the perimeter of the site to act as a buffer for the townhome units that will not be visible from the exterior of the site. The townhome units will be rear loaded and accessed via an alleyway. Access to the site is proposed via full access located on Binion Road. Right and left turn lanes leading into the site will be provided along Binion Road. He said of the 95.09 acres, 30.72 acres is reserved for open space including a pool, cabana, playground and a mixed-use active field. A landscape buffer will be provided in a tract along the Binion Road frontage and along the southern property line. He said the DRC voted 4-2 to recommend approval of the Magnolia Terrace PD; Master Plan and Rezoning.

Mayor Nelson asked where the nearest Town Homes are to this site to which Bobby stated they would be in the Avian Point development to the North West of Magnolia Terrace.

Commissioner Bankson said that on page 289, it shows a different subject property to which Bobby said this is a scriviners error and this will be corrected.

Luke Classon, Appian Engineering provided a brief presentation on the property and said the property is made up of 12 parcels and 6 property owners and said the lots are anywhere from 1 acre to 5 acres. He said the Meadows of Maude Helen is located to the North and was built under the 1993 Code. He then said from the beginning, we wanted to make sure we were compatible in doing the large lots. He said they held a community meeting and some of the residents were concerned with compatibility issues and said that they've

attempted to address and enhanced their concerns. Discussion ensued over additional details including the larger community areas, various trails, etc.

Commissioner Becker said that on the plan where it shows emergency access only, is that intended and asked for clarification.

Mr. Classon said that initially, when we first looked at this project, we always had the connection to Binion and showed the piece off Johns Road and said where it tees into Beardsley, which is the only entrance and exit for the Meadows at Maude Helen, there are no homes to the West of this intersection. He said this was always intended to be stubbed out and was platted and written on the plans as a future interconnectivity, however, unfortunately, they also built a 6' block wall.

Bobby Boeh, 2317 Boy Scout Road, Apopka, FL 32703 said she understands that the people in Maude Helen are not wanting the extra impact on their infrastructure and asked if Binion would be widened to which Mayor Nelson stated that those people are not present today. She then stated that down on Binion, they've had issues with theft and are being kept awake at night by loud noises from people on golf carts driving back and forth looking for appropriations to take from jobsites to which Mr. Classon said he'll make a note of that and will notify the construction site.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve Ordinance No. 2888 at first reading and hold over for a second reading and adoption.

MOTION by Commissioner Bankson, and seconded by Commissioner Smith to approve Ordinance No. 2888 at first reading and hold over for a second reading and adoption. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye.

5. Ordinance No. 2890 - First Reading - Annexation - Clarcona Road Property

Owner: E&H Clarcona, LLC.

Applicant: Andrew Engelmann c/o Dave Schmitt

Location: East of Coral Hills Road and west of Clarcona Road

Project: 1.34 +/- Acres

Project Manager: Allyson Williams

Allyson Williams, Planner I, said the request is to annex a 1.34 acre parcel into the City of Apopka and said the subject property is located East of Coral Hills Road and West of Clarcona Road and is contiguous to the City limits. She said the applicant is proposing an industrial warehouse on the property.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve Ordinance No. 2890 at first reading and hold over for a second reading and adoption.

MOTION by Commissioner Becker, and seconded by Commissioner Bankson to approve Ordinance No. 2890 at first reading and hold over for a second reading and adoption. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye.

6. Ordinance No. 2891 – First Reading - Annexation – West of the Orlando Apopka Airport and Lake Penny

Owner: Lisa L. Hill, Trustee

Applicant: Long Long Hill Land Trust

Location: West of the Orlando Apopka Airport and Lake Penny

Project: 20.617 +/- acres

Project Manager: Bobby Howell

Bobby Howell, Planning Manager said this is a request to annex 20.617 acre parcel into the City of Apopka and said the property is located West of the Orlando Apopka Airport and Lake Penny. He said the property is contiguous with the City limits and eligible for annexation. He said the assignment for the future land use and zoning will occur at a later date through the action of the City Council.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve Ordinance No. 2891 at first reading and hold over for a second reading and adoption.

MOTION by Commissioner Smith, and seconded by Commissioner Velazquez to approve Ordinance No. 2891 at first reading and hold over for a second reading and adoption. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye.

7. Ordinance No. 2892 – First Reading - Annexation – Peterson Road

Owner: Lisa L. Hill, Trustee

Applicant: Long Long Hill Land Trust

Location: Peterson Road

Project: 11.25 +/- acres

Project Manager: Bobby Howell

Bobby Howell, Planning Manager said this is a request to annex 11.25 acre parcel into the City of Apopka. He said the property is located West of SR 429 and South of the Mid Florida Logistics Park and is contiguous with the City limits.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve Ordinance No. 2892 at first reading and hold over for a second reading and adoption.

MOTION by Commissioner Smith, and seconded by Commissioner Becker to approve Ordinance No. 2892 at first reading and hold over for a second reading and adoption. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye.

8. Ordinance No. 2893 – First Reading - Annexation – 4601 Hogshead Road

Owner: Lisa L. Hill, Trustee

Applicant: Long Long Hill Land Trust

Location: 4601 Hogshead Road

Project: 7.34 +/- acres

Project Manager: Bobby Howell

Bobby Howell, Planning Manager said this is a request to annex 7.34 acre parcel into the City of Apopka. He said the property is located at 4601 Hogshead Road and is contiguous with the City limits.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve Ordinance No. 2893 at first reading and hold over for a second reading and adoption.

MOTION by Commissioner Bankson, and seconded by Commissioner Becker to approve Ordinance No. 2893 at first reading and hold over for a second reading and adoption. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye.

9. Ordinance No. 2877 - First Reading - Apopka Code of Ordinances; Part III – Land

Development Code – Glitch Amendments 4

Presented by: James Hitt

Jim Hitt, Community Development Director said on March 6, 2019, the Council Formerly adopted Ordinance No.2700, approving the new Land Development Code. He said since then we've had three modifications "glitch amendments" which have either clarified the different portions of the LDC or added in something that was missed or that will be needed for future planning. He said the we had a Planning Commission meeting on November 9, 2021 and this is our First Reading before the Council. He said Planning Commissioner recommended approval, as presented. He provided an exhibit which highlighted the bullet points of the Land Development Code. He said this particular change affects five of the ten articles of the LDC, which are outlined in A, B, & C and proceeded to provide a synopsis of same.

Commissioner Becker asked what order these are in or if we're going page to page. He also clarified that sections that are underlined have been added. He then asked Jim if he would be going back to pg. 336 to which Jim stated no but if you have a question we can. He then pointed out bullet point #4 and said this raised a red flag. He read the bullet point as follows: "residential development north of Ponkan and west of Rock Springs Road,

Park Avenue shall be restricted to no more than 2 DU per acre, unless otherwise authorized through the adopted Wekiva Parkway Interchange Plan; (refer to Apopka Comprehensive Plan.” He asked Jim to talk this through.

Jim stated that everything North of Ponkan is limited to 2 DU per acre as it’s in the Wekiva River Protection Area. He said unless it’s in the Comp Plan, which, in this case is the Kelly Park Interchange, Form Based-Code. He said the KPI is the only place that can deviate from the 2 DU per acre.

Commissioner Becker said so that means within the Kelly Park Interchange, Form Based-Code as that’s different from the Wekiva Parkway Interchange Plan, or is it one in the same?

Jim stated that they’re basically the same to which Commissioner Becker asked if we can make that clear as our Form Based-Code is called the Kelly Park Interchange. Jim said that the adopted Wekiva Parkway Interchange Plan is a State document, which is has the ultimate authority.

Mayor Nelson said that when the State did the agreement back in 2004, it was a compromise between the environmentalist and developers and said they gave us one interchange and that interchange is at Plymouth Sorrento and Kelly Park Road. He said it’s around that development, in that one mile radius, we can have all the intensity we wanted to take but everything on either side of that one mile was very, very low density. He said this was a unique arrangement that will serve us well over the long term.

Jim provided a summary of the rest of the sections that have either been amended or added.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve Ordinance No. 2877 at first reading and hold over for a second reading and adoption.

MOTION by Commissioner Bankson, and seconded by Commissioner Velazquez to approve Ordinance No. 2877 at first reading and hold over for a second reading and adoption. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye.

10. Ordinance No. 2882 – First Reading - Amending Land Development Code to permit Mobile Food vendors as a permitted use
Presented by: Michael Rodriguez

Michael Rodriguez, City Attorney said the impetus for this Ordinance is basically based upon the legislative bill that was passed in 2020 which was preempted the regulation of food trucks to the State. He said in addition to that, it then prohibited local governments from banning food trucks from operating within the City limits. He said the purpose of

this Ordinance is to provide locations for these mobile food vendors to operate within the confines of the Land Development Code. He said we've proposed several zoning districts in which these uses can be done. He said there are also specific standards for the operation of mobile food vendors, including spacing requirements and operational requirements in order to protect the health, safety and welfare of the residents. He said one issue that has come up is related to two of the various zoning designations where we've allowed for these to use residential uses, which are permitted. He said the question is are there sufficient standards in place to protect the residential uses for food trucks operating on a lot, having a residential use. He said that currently, when operating on private property, a mobile food vendor, may operate only if set back at least 50' from an abutting residential district or at least 150' from any exclusively single family residential structure, unless the owners of the residential structure provide the mobile food vendor with express written permission to operate. He said he researched several other jurisdictions that had similar language to this and this Ordinance is compatible and consistent with the current Statutory requirements.

Mayor Nelson said he felt that we need to get permission from the homeowners who are at least 150' on either side to ensure they don't impact the abutting homeowners.

Commissioner Becker said at the end of the day, we need to ensure that the mobile food vendor is not causing undue stress on the directly abutting property owners.

Nayland Richmond, 38 W. 8th Street, Apopka, FL 32703, spoke in favor of this Ordinance and said the different categories. He said he appreciates you working with us and said a lot has changed since the pandemic and said we're trying to provide a service.

Clinton Stanley, 248 W. 7th Street, Apopka, FL 32703, spoke in favor of this Ordinance and said the City of Apopka is his certificate holder and said this also helps the City by generating revenue.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. He asked for a motion to approve Ordinance No. 2882 with the changes discussed at first reading and hold over for a second reading and adoption.

MOTION by Commissioner Smith, and seconded by Commissioner Bankson, to approve Ordinance No. 2882 at first reading and hold over for a second reading and adoption. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye.

11. Ordinance No. 2884 - First Reading - Amending Land Development Code to regulate Small Box Discount Stores
Presented by: Michael Rodriguez

Michael Rodriguez, City Attorney said the Ordinance before you today is the one that was originally contemplated earlier this year and is the impetus for the passage of the Small

Box Discount Store Moratorium. He said this Ordinance is the culmination of the regulatory aspects of the City to regulate small box discount stores, commonly known as dollar stores. He said this was brought upon by concerns over the proliferation of this use within the City and said that as noted above, there are currently 12 dollar stores within the City limits of Apopka. He said this Ordinance will define this use and uses that meet this definition will then be subject to distance and special requirements. He showed a map of the current locations of the dollar stores and they're basically overlapping each other. He said if this ordinance is to pass, there will be no new dollar stores, no new use for small box discount stores can operate or will be allowed to be located within at least 2 miles of another use. He said they will also have to meet the City's non-residential design standards, which already exist. He said the definition is consistent with the definitions that have been established by other jurisdictions.

Commissioner Velazquez said she listened in at the Planning Commission to the issues and concerns from some of the board members. She asked where the residents are that don't want the dollar stores and said although they may not be in Chambers tonight, they do contact the Commissioners. She said the residents also go on the social media and administrative sites and said there is a tone of what the residents are asking for and said we get the feed-back from them. She said this will also provide an opportunity for other small box stores to want to come in to the City and give us a variety of retail.

Commissioner Smith said small box stores are a prime business but said having them one on top of the other is something that we need to control. He said what we're doing here is making sure we place them so they're not all in one spot.

Commissioner Becker said he saw the opinions of the Planning Commission and said he respects their opinions but would argue that we do limit businesses and said that's the whole point of the permitted use table. He said we have definitions of business types and they're allowed in certain areas and not in other areas. He said in fact, we still have a ban on medical marijuana dispensaries. This item was first discussed in May/June and we've had the moratorium in place since then. We've advertised this as well so the idea that no one from that side of the business is not here to argue against this requirement is telling.

Mayor Nelson concurred and said Michael did a nice job researching this and came up with something we can all be proud of.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve Ordinance No. 2884 at first reading and hold over for a second reading and adoption.

MOTION by Commissioner Becker, and seconded by Commissioner Smith to approve Ordinance No. 2884 at first reading and hold over for a second reading and adoption. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye.

12. Ordinance 2894 - First Reading - Cross-Connection Control Ordinance.

Presented by: Michael Rodriguez

Michael Rodriguez, City Attorney said Ordinance No. 2894 is before you today and is the amendment to the cross-connection control program. He said the amendment is part of the requirements that the City and DEP agreed to as part of their Consent Order for the adoption of the revisions to the current ordinance prior to the deadline that the two parties agreed to, which is December 31, 2021. He said he researched other jurisdictions to see how they do their statutory framework for cross connection. He said we're completely repealing the current ordinance and replacing it with the new ordinance, which is a streamlined and efficient version of the prior ordinance. He said the ordinance provides the overall framework and will then authorize the City Council to adopt what is the Cross-Connection Control Manual. He said that will be the technical document which will govern how the City's program is operated. He said this will be presented to you at the next meeting on December 15th. He said this will be presented to you by resolution, which will be adopted, once this Ordinance is adopted after second reading. He said any future changes to any technical aspects to the manual will be presented by resolution to be adopted by City Council. He provided a brief summary of how the program will be run and said the ordinance provides various methods for enforcement and will likely be done through Code Enforcement.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve Ordinance No. 2894 at first reading and hold over for a second reading and adoption.

MOTION by Commissioner Bankson, and seconded by Commissioner Smith to approve Ordinance No. 2894 at first reading and hold over for a second reading and adoption. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye.

13. Resolution No. 2021-62 - FY21/22 Budget Amendment

Presented by: Gladymir Ortega

Gladymir Ortega, Finance Director said this is Resolution 2021-62, amending the budget for the fiscal year, beginning October 1, 2021 and ending September 30, 2022. She provided the list of all of the funding and amendments under this Resolution.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve Resolution No.2021-62.

MOTION by Commissioner Velazquez, and seconded by Commissioner Becker to approve Resolution No. 2021-62. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye.

14. Resolution No. 2021-63 - Approve a Highway Maintenance Memorandum of Agreement with FDOT to provide roadway and road right-of-way maintenance services on SR 436 and US 441.

Presented by: Pam Richmond

Pam Richmond, Transportation Coordinator said this is a maintenance agreement with FDOT and said we have one in place right now and it expires December 15th and said we have two other maintenance agreements for street light maintenance and traffic signal maintenance. She said this is the highest dollar agreement and said this year FDOT came to us and asked us to renegotiate this agreement. She said they created some new categories and increased the cost of some of the items and said they asked us to take on the items that we thought we could do. She provided some of the highlights between the new agreement vs. the old agreement. She said the old agreement was \$348,000 for 3 years. He said the new agreement over 3 years is \$419,754. She said Edward, herself and Paul Hathaway carefully contemplated and negotiated this new agreement and she recommends approval.

Mayor Nelson asked if anyone had any questions or if anyone from the public wished to speak on this item. Hearing none, he asked for a motion to approve Resolution No. 2021-63.

MOTION by Commissioner Bankson and seconded by Commissioner Smith to approve Resolution No. 2021-63. Motion carried unanimously with Mayor Nelson, and Commissioners Bankson, Becker & Velazquez voting aye.

CITY COUNCIL REPORTS

Commissioner Velazquez said she attends Saturday Sounds every weekend and is looking forward to this weekend. She said we have the Arts show and the Saturday Sounds this weekend.

Commissioner Bankson said it's beginning to feel like Christmas and said he's looking forward to all of the things we have in December and said it's always a great time in Apopka with the Tree Lighting Ceremony, the Parade; Shop with a Cop and said we have a lot of great things around here as a community.

Commissioner Smith said he had a great Thanksgiving and enjoyed the AMI and said it was great to see that facility and what they're doing there. He said he also was there at the Fire Department when they gave out their awards.

Commissioner Becker said two meetings ago, he brought up the idea of analyzing the agreement with Taurus in terms of what staff authority was in terms of making final decisions at the City Center and asked if we had a point of view on that.

Mayor Nelson said we would not do anything without Council approval.

Michael Rodriguez said that any type of development that would be proposed on the property, staff will present this and it will also go through all of the review processes. He said we are tweaking the language to get clarification as to the word subsidized and said how HUD treats subsidized is a lot broader than just direct subsidies. He said the current language covers a broad range.

Commissioner Becker also asked for a status on the Station Street RFP to which Edward said he spoke with Jessica in Procurement and she reported that that selection committee has been formed and they will be receiving their packets to review soon and will come back to you with a recommendation.

CITY ADMINISTRATOR REPORT

Financial Update

Edward Bass, City Administrator, provided a brief report on where we're at with the State Sales Tax. He said we're not too bad right now and said things look pretty positive for the second month and said we're running at a little over \$23,000 short of the under budget but said it's still early in the year. He said this is one that we need to watch and will continue to watch as we go through this year.

Coronavirus State and Local Fiscal Recovery Funds Update

Edward said he's been doing a lot of research and has been to a lot of seminars and said one of the things that are really critical now is that they're still making changes and told us to hold up as they still haven't issued the final report. He said he feels this will be more positive and will open up the use of some of those dollars and said if you remember, the prior list was limited to four or five items. He said we're going to do a workshop on December 15th at 6:00 p.m. He said he will go over all of the grants and things we've applied for, what we've received, what we haven't received and bring this back to you. He said we spent some of the rescue money so he'll also provide a summary of what we've spent of those dollars and what's leftover. He said hopefully, we'll have some more direction from the Treasury to see what else we can use the Rescue dollars for. He said we'll review the items that we did not get and will bring you recommendations of how we plan to fund the items that weren't funded by the grants. He said he also will provide an update on the Duke Energy money and will bring back what we've earmarked, what we have already put toward budget amendments and what's remaining of those dollars as well. He said that was his goal and he's met with staff and we've put our heads together so we can do the workshop and bring you all of our recommendations.

Commissioner Velazquez said her concern is that we have a Council meeting at 7:00 p.m. and asked if that's enough time to go over this to which Edward said he believes so as it's pretty straight forward. She asked about the American Rescue Act and said she thought we only took \$1 million out of that to which Edward confirmed and provided a brief summary of those dollars and said we'll discuss all of that at the workshop.

CITY ATTORNEY'S REPORT

No report.

MAYOR'S REPORT

Mayor Nelson said everyone's pretty much mentioned some of this but said he wanted to make sure they got the times for people that are watching.

The Tree Lighting Ceremony is Thursday, December 2 (tomorrow) at 6:00 p.m. at Kit Land Nelson Park. He said they're also accepting unwrapped toy donations for Apopka Forever Wishes and said there'll be a sled there to drop in your toys and said we have a lot of needs here in Apopka.

Arts in the Park Festival will be Saturday, December 4th at the Northwest Recreation Center Amphitheater. He said the event will be all day and we have a list of all the schools participating and it will be on the stage at the amphitheater. He said we finish out that night with our Saturday Sounds.

Camp Wewa Open House will be on Tuesday, December 7th from 4:00 p.m. – 7:00 p.m. He said he's excited about this and it looks like it'll be a great event. He said anyone who hasn't been able to tour Camp Wewa yet come on out Tuesday. He said we'll have smores, crafts and tours of the facility.

Sertoma Christmas Parade will be held on Saturday, December 11th, on Park Avenue. The Parade begins at 10:00 a.m. and goes until about 12:00 p.m.

Orlando Philharmonic Holiday Pops Concert is Saturday, December 11th, at the Apopka Amphitheater from 5:00 p.m. – 7:00 p.m.

He said there are a lot of events going on over the next few weeks so there should be something there for everyone!

ADJOURNMENT - There being no further business the meeting adjourned at 5:04 p.m.

Bryan Nelson, Mayor

ATTEST: _____
Susan M. Bone, City Clerk